

## Message Text

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ACTION SS-25

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R 111533Z NOV 75  
FM AMEMBASSY LAGOS  
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USMISSION USUN NEW YORK

C O N F I D E N T I A L LAGOS 1143

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EXDIS

REF: A) LAGOS 10795; B) LAGOS 10771; C) STATE 255832;  
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E.O. 11652: N/A  
TAGS: UNGA, EGEN, NI  
SUBJECT: UN DRAFT RESOLUTION ON CORRUPT PRACTICES  
BY TRANSNATIONAL ENTERPRISES

SUMMARY : SUBJECT WAS RAISED WITH MEA ECON DEPT OFFICIALS NOV 10,  
THEY RELUCTANT TO ALTER PARAS 3 AND 5 OF DRAFT RESOLUTION, IN  
ABSENCE OF LAW THEY ARGUE HOME COUNTRY BECOMES REFUGUE FOR CORRUPTERS

.  
THEY DOUBT INFRINGEMENT OF HOST COUNTRY SOVEREIGNTY LIKELY SINCE  
ANY INVESTIGATION OF CORRUPT PRACTICES INVOLVING TNE'S WOULD BE CO-  
OPERATIVE UNDERTAKING IN WHICH HOST COUNTRY WOULD CONDUCT  
INVESTIGATION WITHIN ITS BORDERS. END SUMMMARY.

1. EMBOFF MET NOVEMBER 10 WITH H.O.I. MONU, ACTING DIRECTOR MEA  
ECONOMIC DEPT., G.I. ARUEDE OF SAME DEPARTMENT, AND B.I. OLUMILUA  
OF INTERNATIONAL ORGANIZATIONS DEPARMENT TO DISCUSS DRAFT UN  
RESOLUTION ON CORRUPT PRACTICES BY TNE'S. TRIO WAS AWARE OF RESOLUTION

BUT HAD NOT SEEN TEXT AND WAS UNAWARE THAT FMG WAS ONE OF  
16 COSPONSORS.

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2. AFTER HANDING MEA OFFICIALS TEXT OF DRAFT RESOLUTION TO READ

EMBOFF MADE POINTS CONTAINED IN PARA 2, 3, 5 AND 7 OF REF D AND SUGGESTED THAT BEST SOLUTION MIGHT BE TO AWAIT FINDINGS OF UN COMMISSION ON TNE'S EXPECTED NEXT SPRING. ARUEDE, WHO DID MOST OF TALKING, BRUSHED ASIDE THIS SUGGESTION WITH COMMENT THAT GA'S RIGHT TO SPEAK COULD NOT BE DENIED. TO EMBOFF REPLY THAT GA COULD NOTE ITS CONCERN AND CONDEMN ILLEGAL PAYMENTS PENING RESULTS OF MORE CAREFUL UN COMMISSION STUDY, ARUEDE SAID A RESOLUTION LACKING SPECIFICS WOULD HAVE NO EFFECT ON PROBLEM. HE ADDED THAT IF RESOLUTION PASSED BY GA INCOMPATIBLE WITH UN COMMISSION FINDINGS, FORMER COULD BE AMENDED.

3. IN VIEW OF NIGERIAN OFFICIALS' UNFAMILIARITY WITH TEXT OF DRAFT RESOLUTION, EMBOFF DID NOT BRING UP ALL PROPOSED CHANGES IN DRAFT RESOLUTION MADE BY DEPARMENT IN STATE 252910. NIGERIANS VOICED NO OBJECTION TO USG WISH TO CHANGE WORDING OF DRAFT SO AS TO AVOID ATTRIBUTION OF SOLE GUILT TO TNE AND TO CHANGE FIRST WORD PREAMBULAR PARA 4 TO "RECALLING." HOWEVER, ON OPERATIVE PARAS 3 AND 5, TO WHICH BULK OF HOUR-LONG DISCUSSION WAS DEVOTED, THEY DUG IN

THEIR HEELS. NIGERIANS TOOK POSITION THAT DISCLOSURE LEGISLATION PRESENTS NO PROBLEM BECAUSE "TRUTH WILL OUT" IN ANY EVENT. IF FMG OFFICIAL HAS BEEN CORRUPTED, GOOD OF COUNTRY REQUIRES THAT HIS IDENTITY AND DETAILS OF SCANDAL BE MADE PUBLIC. THEY INTERPRETED USG EFFORT TO DELETE PARAS 3 AND 5 IN FAVOR OF LANGUAGE SUGGESTED REF. D AS ATTEMPT TO PUT BURDEN ON HOST COUNTRIES. THEY SAID IT NOT POSSIBLE TO ENACT SPECIFIC LAW COVERING EVERY POSSIBLE CRIME AND THAT TNE'S SHOULD ABIDE BY EXISTING LAWS AND COMPORT THEMSELVES AS GOOD CITIZENS OF HOST COUNTRY. IT SHOULD BE OBVIOUS THAT CORRUPTION OF AN OFFICIAL IS WRONG WHETHER OR NOT THERE IS A STATUTE TO THAT EFFECT. IN ADDITION THEY STRONGLY MADE POINT THAT IN ABSENCE HOME COUNTRY LAW AGAINST ILLEGAL PAYMENTS, CULPRITS ARE ABLE TO TAKE REFUGE THERE.

4. TO EMBOFF'S REPEATEDLY EXPRESSED CONCERN THAT HOME COUNTRY DISCLOSURE OR PENALTY LEGISLATION MIGHT EASILY DEMAND OF IT ACTIONS WHICH COULD BE CONSTRUED AS INFRINGEMENT OF ANOTHER NATION'S SOVEREIGNTY, THEY RESPONDED THAT INFRINGEMENT WOULD NOT ARISE BECAUSE INVESTIGATION WOULD BE A COOPERATIVE AFFAIR. THIS DID NOT MEAN FMG WOULD ALLOW FOREIGN INVESTIGATION ON ITS SOIL, RATHER, THAT IT WOULD CONDUCT PROBE AND PASS RESULTS TO HOME COUNTRY. FACT THAT LATTER WOULD THEN BE IN POSITION OF HAVING TO MAKE DISCLOSURE CONFIDENTIAL

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OR METE OUT PUNISHMENT EVEN THOUGHT IT HAD BEEN UNABLE ITSELF TO ESTABLISH FACTS OF CASE DID NOT TROUBLE THEM BECAUSE THEY WERE CERTAIN FACTS AS ESTABLISHED BY HOST COUNTRY WOULD BE RELIED UPON. THROUGHTOUT DISCUSSION THEY HAD MADE POINT HOME COUNTRY COOPERATION WAS WHAT WAS NEEDED. EMBOFF AGREED BUT STATED PRESENT WORDING OF PARAS 3 AND 5 WAS NOT BEST WAY OF ACHIEVING IT. FINALLY MEA OFFICIALS REQUESTED TEXT OF DRAFT RESOLUTION ALONG WITH USG SUGGESTED CHANGES TO PARAS 3 AND 5, WHICH IS BEING PROVIDED.

5. COMMENT: ALTHOUGH MONU AND HIS COLLEAGUES ACCEPT FACT THAT CORRUPTION INVOLVES AT LEAST TWO PARTIES IT SEEMS CLEAR THEY VIEW TNE'S AS MAJOR SOURCE OF PROBLE. FOLLOWING THIS LINE, IT IS THE DEVELOPED COUNTRIES' RESPONSIBILITY TO KEEP THEIR NATIONALS ON A LEASH AND IT IS THEY WHO MUST ENACT LEGISLATION, NIGERIANS SEE NO CONTRADICTION IN RESOLUTION WHICH PUTS ONUS FOR INVESTIGATION ON DEVELOPED COUNTRIES EVEN THOUGH THEY MAY FIND IT IMPOSSIBLE TO CARRY OUT SUCH INVESTIGATION. ON OTHER POINT OF DEPT. CONCERN, THAT DISCLOSURE OF CORRUPT OFFICAL COULD BE SOURCE OF IRRITATION TO HOST GOVERNMENT, WE DOUBT THAT FOR TIME BEING THIS IS AS TRUE FOR PRESENT DAY NIGERIA  
AS FOR MOST OTHER LDC'S. SUCH DISCLOSURE WOULD FIT RIGHT IN WITH PRESENT CLIMATE OF WIDESPREAD SACKINGS. INVESTIGATIONS AND RE-CRIMINATIONS, ETC. EMBASSY WILL CONTINUE TO TRY TO CONVINCE FMG OF MERITS OF USING WORDING OTHER THAN THAT IN PARAS 3 AND 5.  
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